



Rev. 10/1/03

AF

RESPONSE TRANSMITTAL LETTERAttorney Docket
PA0335-US /
11269.34

Application Serial Number:	Filing Date:	Examiner:	Group Art Unit:
10/026,379	December 18, 2001	Bernard Souw	2881

Invention: SYSTEM AND METHOD FOR INSPECTING A MASK

TO THE COMMISSIONER OF PATENT AND TRADEMARKS:

Transmitted herewith is an amendment in the above-identified application. The fee has been calculated as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER RESPONSE		HIGHEST NUMBER PREVIOUSLY PAID FOR	NUMBER OF EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	113	MINUS	143	0	\$18	\$0
INDEP. CLAIMS	6	MINUS	6	0	\$86	\$0

☒ Petition is hereby made under 37 CFR 1.136(a) to extend the time for response to the Office Action of July 15, 2003 to and through December 15, 2003, comprising an extension of the shortened statutory period of:

☒ one month (\$110) ☐ three months (\$950)
☐ two months (\$420) ☐ four months (\$1,480)

TOTAL ADDITIONAL FEE FOR THIS AMENDMENT

\$110

☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.

☒ A check in the amount of \$110.00 for the extension of time is enclosed.

☒ The commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1141, pertaining to 1) any filing fees under 37 CFR 1.16 for the presentation of extra claims; 2) any patent application processing fees under 37 CFR 1.17.

☒ Any additional extension of time required for the timely submission of this paper, the fees for which have not been previously paid, is hereby petitioned for and requested.

9-20-04
DateS / ~
Steven G. Roeder, Reg. No. 37,227

CERTIFICATE OF MAILING: I hereby certify that this correspondence and all correspondence identified as accompanying this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 20, 2004.

S / ~
Steven G. Roeder, Reg. No. 37,227



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sogard)
Serial No: 10/026,379) Art Unit
Filed: December 18, 2001) 2881
For: SYSTEM AND METHOD FOR)
INSPECTING A MASK)
Examiner: Bernard Souw)
Attorney Docket: PA0335-US / 11269.34)

REQUEST FOR WITHDRAWAL OF FINAL REJECTION
AND RESPONSE AFTER FINAL REJECTION
PURSUANT TO 37 C.F.R. § 1.116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Request for Withdrawal of Final Rejection

The Applicants respectfully submit that the final rejection contained in the Office Action dated May 21, 2004, is premature. The final rejection is believed to be premature because the Applicant's Response mailed on January 8, 2004 (hereinafter the "January Response") did not necessitate the new grounds for response for all of the previously pending claims, as provided below.

CERTIFICATE OF MAILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class, postage prepaid mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on this the 20th day of September, 2004.

STEVEN G. ROEDER, Attorney for Applicant--Registration No. 37,227

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The Applicant respectfully requests that the final rejection of the present application be withdrawn pursuant to MPEP 706.07(a), which states in relevant part:

“...second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is *neither* necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, ... and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner.” (Emphasis added.) MPEP 706.07(a).

In particular, with regard to the present application, the Applicant mailed an Amendment and Response to Office Action on April 24, 2003. In conjunction with that Amendment and Response, the Applicant also submitted a Supplemental Information Disclosure Statement pursuant to 37 CFR 1.97(c), disclosing U.S. Patent No. 6,014,200 issued to Sogard et al. (“Sogard et al.”). Subsequently, the Patent Office issued its next Office Action dated August 3, 2003, rejecting all pending claims 49-76 and 124-208 and objecting to claims 70, 72, 186, 187, 203 and 204, which used Sogard et al. as a prior art reference for rejecting certain specified claims. The Applicant responded in a Response to Office Action mailed on January 8, 2004, by traversing the rejection of all pending claims 49-76 and 124-208, and arguing for the objection to claims 70, 72, 186, 187, 203 and 204 to be withdrawn. Importantly, no claims were amended with this Response. Currently, with the instant Final Office Action, the Patent Office has amended its means of rejecting all pending claims 49-76 and 124-208 by utilizing Sogard et al. as a prior art reference to reject all of the pending claims, while no longer utilizing other prior art references, specifically Itoh et al. (USPAT 5,438,207), Shimura et al. (USPAT 4,524,277), or Yasaka et al. (JP-405090140A), to reject any of the pending claims. Accordingly, because no amendment of the claims by the Applicant necessitated introduction of the new grounds of rejection, and because the Patent Office did not make its next Office Action final after the submission of a Supplemental Information Disclosure Statement pursuant to 37 CFR

1.97(c), the instant final rejection is believed to be premature.

Additionally, MPEP §706.07(d) provides in relevant part: "If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection." Thus, the Applicant respectfully submits that pursuant to MPEP §706.07(a), the instant Final Office Action should be withdrawn in accordance with MPEP §706.07(d).

Response

This Response is to the Final Office Action dated May 21, 2004. The Applicant respectfully requests that this Response be considered after final rejection because the final rejection is premature and the Applicant has complied with the provisions of 37 C.F.R. § 1.116. The Application is believed by the Applicant to be in proper form for allowance. Accordingly, allowance of all pending claims is respectfully requested.